

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2010-571

12 **ANGELA MARIE CERRITO**
1613 G Street
13 Napa, California 94559

A C C U S A T I O N

14 **Registered Nurse License No. 664807**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 31, 2005, the Board of Registered Nursing issued Registered
23 Nurse License Number 664807 to Angela Marie Cerrito (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought here and will
25 expire on December 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states, in part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . . .

7. Section 2762 of the Code states, in part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or

1 the public or to the extent that such use impairs his or her ability to conduct with
2 safety to the public the practice authorized by his or her license. . . .

3 8. Section 4022 of the Code provides:

4 "Dangerous drug" . . . means any drug or device unsafe for self use in humans or
5 animals, and includes the following:

6 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
7 without prescription," "Rx only," or words of similar import.

8 (b) Any device that bears the statement: "Caution: federal law restricts this device
9 to sale by or on the order of a _____," "Rx only," or words of similar
10 import, the blank to be filled in with the designation of the practitioner licensed to
11 use or order use of the device.

12 (c) Any other drug or device that by federal or state law can be lawfully dispensed
13 only on prescription or furnished pursuant to Section 4006.

14 9. Section 4059, subdivision (a), of the Code provides, in pertinent part, that "[n]o
15 person shall furnish any dangerous drug, except upon the prescription of a physician . . ."

16 10. Section 4060 of the Code provides, in pertinent part that "[n]o person shall possess
17 any controlled substance, except that furnished to a person upon the prescription of a physician . . ."

18 11. Section 11173, subdivision (a), of the Health and Safety Code provides:

19 No person shall obtain or attempt to obtain controlled substances, or procure or
20 attempt to procure the administration of or prescription for controlled substances,
21 (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by concealment of a
22 material fact.

23 REGULATORY PROVISIONS

24 12. California Code of Regulations, title 16, section 1442, states:

25 As used in Section 2761 of the code, "gross negligence" includes an extreme
26 departure from the standard of care which, under similar circumstances, would
27 have ordinarily been exercised by a competent registered nurse. Such an extreme
28 departure means the repeated failure to provide nursing care as required or failure
to provide care or to exercise ordinary precaution in a single situation which the
nurse knew, or should have known, could have jeopardized the client's health or
life.

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COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

14. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.

15. "Morphine Sulfate" is the generic name for the trade name Dilaudid and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M), and a dangerous drug pursuant to Business and Professions Code section 4022. Morphine is a principal alkaloid of opium and considered to be the prototype of the opiate agonists. Morphine Sulfate is a narcotic analgesic prescribed to reduce pain.

16. "Phentermine" was and is the generic name for the trade name drug Adipex-P. It is designated by Health and Safety Code section 11057, subdivision (f)(4), as a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug. Phentermine is similar to an amphetamine and is used in the treatment of obesity.

17. "Vicodin is the trade name for the generic drug "Acetaminophen/Hydrocodone," and is comprised of Hydrocodone Bitartrate (a semisynthetic opioid analgesic and antitussive) and Acetaminophen. It is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(3), and a dangerous drug pursuant to Business and Professions Code section 4022.

18. "Warfarin" is the generic name for the trade drug Coumadin and is a dangerous drug as designated by Business and Professions Code section 4022. It is used as a blood thinner.

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FACTUAL SUMMARY

19. From sometime prior to October 2006 to April 18, 2007, Respondent worked as a registered nurse at Kaiser Permanente Hospital located in Vallejo, California.

20. In December 2006, coworkers reported that Respondent was acting unusually, spacey, and was unorganized.

21. During the course and scope of her employment, Respondent committed the following acts:

a. PATIENT A¹: On or about January 21, 2007, at approximately 1804 hours and 1957 hours, Respondent removed 5mg/500mg of Vicodin from the PYXIS² system to administer to Patient A. Respondent only charted the administration of the medication at 0835 hours and 1235 hours. The physician's order was for the medication to be administered four times a day.

b. PATIENT B: On or about March 14, 2007, Respondent noted in Patient B's chart that glucose fingerstick tests were completed at 1700 hours with a blood sugar level at 90 mg/dL and at 2100 hours with a blood sugar level at 165 mg/dL. However, after a review of all of the Glucometers at the Kaiser Permanente Hospital, the documented results could not be verified. Additionally, testing on March 15, 2007, at 0600 hours indicated that Patient B's blood sugar level had risen to 313 mg/dL.

c. PATIENT C: On or about March 14, 2007, at approximately 2157 hours, Respondent withdrew 15mg of Morphine Sulfate from the PYXIS system to administer to Patient C. Respondent failed to chart the administration of the medication, or to chart wastage, or otherwise account for the medication. Additionally, Physician's orders were to administer Warfarin to Patient C daily at 1700 hours. Respondent either failed to administer or failed to document the administration of the medication to Patient C.

¹ Patients are identified by letters in order to preserve patient confidentiality. The medical record numbers of these patients will be disclosed pursuant to a request for discovery.

² PYXIS is a system for the automated dispensing and management of medications at the point of use in hospital settings.

22. On or about March 26, 2007, Respondent tested positive for Marijuana and amphetamines. Respondent admitted to using Phentermine, an amphetamine, and to purchasing it on the internet.

23. On or about May 5, 2009, Respondent tested positive for Marijuana.

24. Respondent's employment with Kaiser Permanente Hospital was terminated, as of April 18, 2007.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence)

25. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), of the Code for unprofessional conduct, as defined by California Code of Regulations, title 16, section 1442, in that she committed acts of gross negligence in carrying out her usual certified or licensed nursing functions. Specifically, respondent was grossly negligent in that on the occasions more particularly set forth in Paragraphs 20-22, above, she committed the following acts:

- a. Administered narcotic medications without proper documentation;
- c. Administered narcotic medications at incorrect intervals; and
- d. Failed to properly chart testing results and did not conduct the test herself when required to do so.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Use of a Controlled Substance and Dangerous Drug)

26. Respondent's registered nurse license is subject to discipline under section 2761, subdivision (a), of the Code for unprofessional conduct, as defined by Code section 2762, subdivision (b), in that on or about March 26, 2007, as more particularly described in Paragraph 22, above, she tested positive for Marijuana and amphetamines, controlled substances and dangerous drugs, to an extent or in a manner dangerous or injurious to herself, any other person, or the public and to the extent that such use impaired her ability to conduct herself safely in regard to the public.

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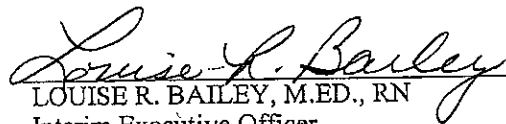
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 664807, issued to Angela Marie Cerrito;
2. Ordering Angela Marie Cerrito to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/3/10



LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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